

In re: Laurent Benbadis et al.

Appl. No.: 09/700,687

Filed: February 14, 2001

Page 4

REMARKS

Applicant acknowledges the Examiner's indication of allowable subject matter for Claims 3 and 11-18, subject to a correction of some minor informalities.

By this response, Claim 3 has been rewritten into independent form and should now be in condition for immediate allowance. Likewise, Claims 11, 12, 14 and 17 have been amended to adopt the suggestions made by the Examiner. Accordingly, it is submitted that these claims are also now in condition for immediate allowance.

Applicant requests reconsideration by the Examiner of the obviousness rejection with respect to Claims 1-2 and 4-10. Contrary to the assertions made by the Examiner, it would not have been obvious to provide a mutant strain of *L. bulgaricus*, which carries a non-sense mutation in at least one of the coding sequences of the lactose operon. This is neither taught nor remotely suggested by the Hottinger reference nor by the secondary reference to Mainzer. As noted in previous remarks, Hottinger et al. disclose mutant strains of *L. bulgaricus* having a deletion in the gene encoding β -galactosidase. On the contrary, the mutant strain of the present invention has no deletion of the gene encoding β -galactosidase, but only a non-sense mutation. Thus, they are clearly structurally different from the mutants of Hottinger et al. Since neither Hottinger nor the secondary reference provides any suggestion or motivation or making the particular mutation, there is no proper basis for rejecting the claims as obvious.

The Examiner's attention is directed to the detailed arguments set forth in the response dated October 15, 2001. For sake of conciseness, these remarks will not repeated here but the reasons given this prior response clearly demonstrate that the rejection is improper and should be withdrawn.

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Page 5

Accordingly, reconsideration by the Examiner and formal notification of the allowability of all claims as now presented are earnestly solicited.

Respectfully submitted,

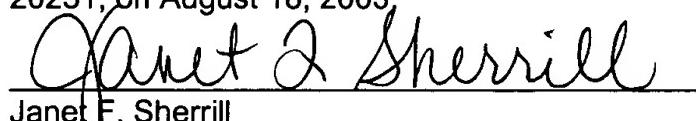


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